

**CIVIL ACTION NO. 5:22-cv-228**

**EXHIBIT 3**  
**COPIES OF DOCUMENTS FILED IN STATE COURT**

CAUSE NO.:

IN THE DISTRICT COURT

V

JUDICIAL DISTRICT

**BEXAR COUNTY, TEXAS**

**PLAINTIFFS' ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

**NOW COME** Plaintiffs Jacqueline Benavidez and San Juanita Lerma, hereinafter individually named or together as "Plaintiffs," complaining of and about KCS Trucking, LLC, Rick Kirk, Northland Capital Financial Services, LLC, and Justin Wilson, hereinafter individually named or together as "Defendants," and would respectfully show the Court the following:

## I. DISCOVERY CONTROL PLAN LEVEL

1. Plaintiffs intend that discovery be conducted under Discovery Level 3.

## II. PARTIES AND SERVICE

2. Plaintiff Jacqueline Benavidez is an individual who is a resident of San Antonio, Bexar County, Texas. The last 4 digits of Plaintiff's social security number are XXX-XX-2847. The last 4 digits of Plaintiff's license number are 5366.
3. Plaintiff San Juanita Lerma is an individual who is a resident of San Antonio, Bexar County, Texas. The last 4 digits of Plaintiff's social security number are XXX-XX-0250.

4. Defendant KCS Trucking, LLC (USDOT No. 915011) is a nonresident corporation, which conducts business in the state of Texas, but does not maintain an agent for service of process in this state. Accordingly, this Defendant may be served with process by service on the Secretary of State of Texas, by certified mail, return receipt requested through the clerk of the Court at, 6511 E. 400 Rd., Oologah, Oklahoma 74053-3217.
5. Defendant Rick Kirk is an individual who is a resident of Texas and who may be served with process at his home at the following address: 6511 E. 400 Rd., Oologah, Oklahoma 74053-3217, or wherever he may be found. Service of said Defendant as described above can be effected by certified mail, return receipt requested through the clerk of the court.
6. Defendant Northland Capital Financial Services, LLC, is a nonresident corporation, which conducts business in the State of Texas, but does not maintain an agent for service of process in this state. Accordingly, this Defendant may be served with process by service on the Secretary of State of Texas, by certified mail, return receipt requested through the clerk of the court at, 333 33<sup>rd</sup> Avenue South, St. Cloud, MN 56301.
7. Defendant Justin Wilson is an individual who is a nonresident of Texas and who may be served with process at his home at the following address: 5814 E. 22nd Pl., Tulsa, Oklahoma 74114, or wherever he may be found. Service of said Defendant as described above can effected by certified mail, return receipt requested through the clerk of the court.

### **III**

#### **JURISDICTION AND VENUE**

8. The subject matter in controversy is within the jurisdictional limits of this Court.
9. This Court has jurisdiction over Defendants because said Defendants purposefully availed themselves of the privilege of conducting activities in the state of Texas and established minimum contacts sufficient to conger jurisdiction over said Defendants, and the assumption of jurisdiction over Defendants will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

10. Furthermore, Plaintiff would show that Defendants engaged in activities constituting business in the state of Texas as provided by Section 17.042(2) of the Texas Civil Practice and Remedies Code, in that said Defendant committed a tort in whole or in part in Texas.
11. Venue in Bexar County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.
12. Further, the Court has jurisdiction in this case because the amount in controversy, exclusive of interest and costs, is within the jurisdictional limits of this Court as Plaintiff, and in compliance with Tex. R. Civ. P. 47, states that monetary relief of over \$1,000,000.00, is sought by way of this suit. However, the amount of actual damages awarded should be subject to the evaluation of the evidence by a fair and impartial jury and the limitations as specified in the Texas Tort Claims Act.

#### **IV.** **FACTS**

13. On or about March 18, 2020, Plaintiffs Jacqueline Benavidez and San Juanita Lerma, were traveling west on Loop 1604 in San Antonio, Bexar County, Texas, in a 2016 Silver Kia Soul (VIN number KNDJN2A25G7825695). Defendant Justin Wilson was also traveling on Loop 1604 in a red 2005 Peterbilt 379 truck tractor, which truck tractor was owned and operated by Defendants Rick Kirk, KCS Trucking, LLC and Northland Capital Financial Services, LLC. At the time of the incident that basis of Plaintiffs suit, the truck tractor was pulling a trailer (VIN number 1PMS14221G10472112), which trailer was owned and operated by Defendant Northland Capital Financial Services, LLC. Suddenly and unexpectedly, Plaintiffs drove over oil that leaked onto the roadway from Defendants' vehicle from a faulty/leaking oil filter or other similar maintenance failure.
14. According to the Texas Peace Officer's Crash Repo, the slippery and dangerous condition created by Defendants caused Plaintiffs to lose control of their vehicle, slide off the roadway, and strike



the center median. As a result of the collision, Plaintiffs sustained serious and disabling injuries for which they now sue.

15. At the time of the incident the basis of Plaintiffs' suit, Defendant Justin Wilson was an employee (or statutory employee) and under the dispatch of Defendants Rick Kirk, KCS Trucking, LLC, and Northland Capital Financial Services, LLC. At the time of the incident made the basis of this suit, Justin Wilson was in the course and scope of his employment with Defendants Rick Kirk, KCS Trucking, LLC and Northland Capital Financial Services, LLC.
16. Among other things as outlined below, the truck/tractor oil leak was caused by the neglect of the commercial motor vehicle operator Justin Wilson and the direct and independent neglect of the Defendants Rick Kirk and KCS Trucking, LLC, and Northland Capital Financial Services, LLC, the employers of Justin Wilson, and the negligence as outlined above and in detail below, resulted in personal physical injuries and physical sickness to Plaintiffs Jacqueline Benavidez and San Juanita Lerma.

V.  
**PLAINTIFFS' CLAIM OF NEGLIGENCE**  
**AGAINST DEFENDANTS**

17. Defendant Justin Wilson, KCS Trucking, LLC, and Northland Capital Financial Services, LLC, had a duty to exercise reasonable care to avoid harm to others under circumstances similar to those described herein.
18. Plaintiffs' injuries were proximately caused by Defendants' negligent, careless, and reckless disregard of said duty. The negligent, careless, and reckless disregard of duty of Defendants consisted of, but is not limited to, the following acts and omissions:
  - A. Failure to exercise the reasonable care that a professional motor carrier would use when it failed to properly inspect, maintain, and repair the truck tractor, or utilize it, pursuant to FMCSR's, and have a trained and qualified mechanic to perform repairs and maintenance on the tractor/trailer;
  - B. Failure to exercise the reasonable care that a professional motor carrier would use when it failed to properly repair and maintain the tractor/trailer in compliance with FMCSR's and state counterparts;

- C. Failure to take the truck and/or trailer prior to the date of the incident out of service and both the motor carrier and its commercial motor vehicle operator should have ensured the vehicle was NOT on the roadways endangering the motoring public;
  - D. Failure to exercise the reasonable care that a professional motor carrier would use when it failed to perform and prepare pre and post-trip inspection and complete necessary reports (DVIR's) in compliance with the FMCSR's and state counterparts;
  - E. Failure to maintain inspection, repair, and maintenance records, as required under 49 CFR 396.3, as well as to report damage, defects, or deficiencies and confirm that such damage, defects, or deficiencies had been repaired, under 49 CFR 396.11 of the FMCSR's and state counterparts;
  - F. Failure to properly ensure its drivers ensured that parts used on the equipment (trucks or trailers) were in good working order;
  - G. The motor carrier, its officers, drivers, agents, representatives, and employees directly concerned with inspection or maintenance of commercial motor vehicles were not knowledgeable of and did not comply with the rules for inspection, repair, and maintenance set out in Part 396 of the FMCSR's and state counterparts;
  - H. Negligently allowed its motor vehicles to be operated in such a condition that they were likely to cause an accident or a breakdown of the vehicle;
  - I. Failed to require operators to report and prepare in writing a report at the completion of each day's work on each vehicle operated (and failed to identify or list defects that would affect the safety of operations of the vehicle or might result in mechanical breakdown or fluid leaks; and
  - J. Allowed inspections, maintenance, repairs, or service to its vehicles by those not properly qualified or certified in violation of industry practice and FMCSR's and state counterparts.
19. All the negligent acts and/or omissions described above proximately caused the injuries and damages the Plaintiff has suffered, and as more fully described below or the occurrence in question.
20. The conduct of Defendants as described above, either jointly or individually rises to the level of malice under Tex. Civ. Prac. & Rem. Code §41.001(7) as well as gross negligence as that term is defined under § 41.001(11) and was the proximate cause of the injuries and damages set out below.

21. These actions and/or omissions of Defendants involved an extreme degree of risk, considering the probability and magnitude of the potential harm to the Plaintiffs and the motoring public. Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of the motoring public, including Plaintiffs. Therefore, the Plaintiffs assert a claim for exemplary damages, the amount of which is to be decided by a fair and impartial jury against Defendants.
22. It is further alleged that Defendant Justin Wilson was a vice principal of Defendants, and thus his actions are the actions of Defendants. Defendants KCS Trucking, LLC, Rick Kirk, and Northland Capital Financial Services, LLC, also ratified the negligent and gross negligent actions of that Defendant Justin Wilson.

**VI.**  
**PLAINTIFFS' CLAIM OF RESPONDEAT SUPERIOR**  
**AGAINST KCS TRUCKING, LLC, RICK KIRK, AND**  
**NORTHLAND CAPITAL FINANCIAL SERVICES, LLC**

23. At the time of the occurrence of the act in question and immediately prior thereto, Justin Wilson was within the course and scope of employment for Defendants KCS Trucking, LLC, Rick Kirk, and Northland Capital Financial Services, LLC.
24. At the time of the occurrence of the act in question and immediately prior thereto, Justin Wilson was engaged in the furtherance of the business of Defendants' KCS Trucking, LLC, Rick Kirk, and Northland Capital Financial Services, LLC.
25. At the time of the occurrence of the act in question and immediately prior thereto, Justin Wilson was engaged in the accomplishing a task for which Justin Wilson was employed.
26. Plaintiffs invoke the doctrine of respondeat superior as against Defendants KCS Trucking, LLC, Rick Kirk, and Northland Capital Financial Services, LLC.

**VII.**  
**PLAINTIFF'S CLAIM OF NEGLIGENT**  
**ENTRUSTMENT AGAINST DEFENDANTS**



27. Defendants KCS Trucking, LLC, Rick Kirk, and Northland Capital Financial Services, LLC were the owners of the vehicles operated by Justin Wilson.
28. Said Defendants entrusted the vehicle to Justin Wilson, a reckless and incompetent driver.
29. Defendants knew, or through the exercise of reasonable care should have known, that Justin Wilson was a reckless and incompetent driver.
30. As described herein, Justin Wilson was negligent on the occasion in question.
31. Justin Wilson's negligence was the proximate cause of Plaintiff's damages.

**VIII.**  
**DAMAGES FOR PLAINTIFFS**

**Jacqueline Benavidez**

32. As a direct and proximate result of the collision and the negligent conduct of Defendants, Plaintiff Jacqueline Benavidez suffered severe bodily injuries to her neck, head, abdomen, as well as to her body generally. The injuries have had a serious effect on the Plaintiff's health and well-being. Some of the effects are permanent and others will cause Plaintiff to suffer for a long time into the future, if not for her entire life. These specific injuries and their ill effects have, in turn, caused the Plaintiff's physical and mental condition to deteriorate generally, and the specific injuries and ill effects alleged have caused and will, in all reasonable probability, cause the Plaintiff to suffer consequences and ill effects of this deterioration throughout her body for a long time in the future, if not for the balance of her natural life. As a further result of the nature and consequences of her injuries, the Plaintiff suffered great physical and mental pain, suffering and mental anguish and in all reasonable probability, will continue to suffer in this manner for a long time into the future, if not for the balance of her natural life.
33. Additionally, as a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff Jacqueline Benavidez incurred the following damages:
  - a. Reasonable medical care and expenses in the past. Plaintiff incurred these expenses for the necessary care and treatment of the injuries resulting from the accident complained



of herein and such charges are reasonable and were usual and customary charges for such services in Bexar County, Texas;

- b. Reasonable and necessary medical care and expenses that will, in all reasonable probability, be incurred in the future;
- c. Physical pain and suffering in the past;
- d. Physical pain and suffering which will, in all reasonable probability, be suffered in the future;
- e. Physical impairment and disability in the past;
- f. Physical impairment and disability that will, in all reasonable probability be suffered in the future;
- g. Loss of wages in the past;
- h. Loss of earning capacity;
- i. Mental anguish in the past;
- j. Mental anguish that will, in all reasonable probability, be suffered in the future;
- k. Physical disfigurement in the past and which will, in all reasonable probability, be suffered in the future;
- l. Cost of medical monitoring and prevention in the future; and
- m. Property damage to the vehicle.

**San Juanita Lerma**

34. As a direct and proximate result of the collision and the negligent conduct of Defendants, Plaintiff San Juanita Lerma suffered severe bodily injuries to her neck and back, chest, abdomen, left knee, as well as to her body generally. The injuries have had a serious effect on the Plaintiffs health and well-being. Some of the effects are permanent and others will cause Plaintiff to suffer for a long time into the future, if not for her entire life. These specific injuries and their ill effects have, in turn, caused the Plaintiffs physical and mental

condition to deteriorate generally, and the specific injuries and ill effects alleged have caused and will, in all reasonable probability, cause the Plaintiff to suffer consequences and ill effects of this deterioration throughout her body for a long time in the future, if not for the balance of her natural life. As a further result of the nature and consequences of her injuries, the Plaintiff suffered great physical and mental pain, suffering and mental anguish and in all reasonable probability, will continue to suffer in this manner for a long time into the future, if not for the balance of her natural life.

35. Additionally, as a direct and proximate result of the occurrence made the basis of this lawsuit,

Plaintiff San Juanita Lerma incurred the following damages:

- n. Reasonable medical care and expenses in the past. Plaintiff incurred these expenses for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in Bexar County, Texas;
- o. Reasonable and necessary medical care and expenses that will, in all reasonable probability, be incurred in the future;
- p. Physical pain and suffering in the past;
- q. Physical pain and suffering which will, in all reasonable probability, be suffered in the future;
- r. Physical impairment and disability in the past;
- s. Physical impairment and disability that will, in all reasonable probability be suffered in the future;
- t. Loss of wages in the past;
- u. Loss of earning capacity;
- v. Mental anguish in the past;
- w. Mental anguish that will, in all reasonable probability, be suffered in the future;
- x. Physical disfigurement in the past and which will, in all reasonable probability, be suffered in the future;
- y. Cost of medical monitoring and prevention in the future; and

z. Property damage to the vehicle.

**PRAYER**

**WHEREFORE**, Plaintiffs respectfully pray that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants, jointly and severally, for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

**LAW OFFICE OF JOE A. GAMEZ, P.C.**

*By: /s/ David A. Tijerina*

JOE A. GAMEZ

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DAVID A. TIJERINA

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**ATTORNEYS FOR PLAINTIFFS**

**PLAINTIFF HEREBY DEMANDS TRIAL BY JURY**



**Automated Certificate of eService**

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Status as of 1/24/2022 11:22 AM CST

Associated Case Party: San Juanita Lerma

Name	BarNumber	Email	TimestampSubmitted	Status
Niqita Selman		n.selman@jagamezlaw.com	1/24/2022 10:40:11 AM	SENT
David A.Tijerina		d.tijerina@jagamezlaw.com	1/24/2022 10:40:11 AM	SENT

Associated Case Party: Jacqueline Benavidez

Name	BarNumber	Email	TimestampSubmitted	Status
Niqita Selman		n.selman@jagamezlaw.com	1/24/2022 10:40:11 AM	SENT
David A.Tijerina		d.tijerina@jagamezlaw.com	1/24/2022 10:40:11 AM	SENT

CERTIFIED MAIL 70210350000102656222

Case Number: 2022CI01303

San Juanita Lerma ET AL VS KCS Trucking, LLC ET AL  
(Note: Attached Document May Contain Additional Litigants.)

IN THE 407th District Court  
BEXAR COUNTY, TEXAS

## CITATION

"THE STATE OF TEXAS"

DIRECTED TO: Northland Capital Financial Services, LLC  
By serving SECRETARY OF STATE  
PO BOX 12079  
AUSTIN, TEXAS 78711

CRT  
md

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this Citation and Petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said PLAINTIFF'S ORIGINAL PETITION was filed on this the 24th day of January, 2022

ISSUED UNDER MY HAND AND SEAL OF SAID COURT 27TH DAY OF JANUARY, 2022.

DAVID TIJERINA  
ATTORNEY FOR PLAINTIFF  
8122 DATAPOINT DR STE 816  
SAN ANTONIO TX 78216



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217

San Antonio, Texas 78205

By: /s/ Monica Hernandez

Monica Hernandez, Deputy

San Juanita Lerma ET AL VS KCS Trucking,  
LLC ET AL

Officer's Return

Case Number: 2022CI01303

Court: 407th District Court

Came to hand on the 27th day of January, 2022, at 11:32 AM and EXECUTED (NOT EXECUTED) by CERTIFIED MAIL, on the 2 day of Feb, 2022, by delivering to: TX Comptroller mail at PO BOX 12079, AUSTIN, TX 78711 a true copy of this CITATION, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with PLAINTIFF'S ORIGINAL PETITION.

Cause of failure to execute this is

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FILED  
1107 O'CLOCK A M

FEB 10 2022

MARY ANGIE GARCIA  
District Clerk, Bexar County, Texas  
BY Monica Hernandez  
DEPUTY



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: /s/ Monica Hernandez

Monica Hernandez, Deputy

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**NORTHLAND CAPITAL FINANCIAL SERVICES, LLC**  
 BY SERVING SECRETARY OF STATE  
 PO BOX 12079  
 AUSTIN, TEXAS 78711

Monica Hernandez Citation Certified Mail 2022C101303

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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**NORTHLAND CAPITAL FINANCIAL SERVICES, LLC**  
 BY SERVING SECRETARY OF STATE  
 PO BOX 12079  
 AUSTIN, TEXAS 78711

Monica Hernandez Citation Certified Mail 2022C101303



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Case Number: 2022CI01303

San Juanita Lerma ET AL VS KCS Trucking, LLC ET AL  
(Note: Attached Document May Contain Additional Litigants.)

IN THE 407th District Court  
BEXAR COUNTY, TEXAS

CITATION

"THE STATE OF TEXAS"

DIRECTED TO: KCS Trucking, LLC  
By serving SECRETARY OF STATE  
PO BOX 12079  
AUSTIN, TEXAS 78711

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"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this Citation and Petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said PLAINTIFF'S ORIGINAL PETITION was filed on this the 24th day of January, 2022

ISSUED UNDER MY HAND AND SEAL OF SAID COURT 27TH DAY OF JANUARY, 2022.

DAVID TIJERINA  
ATTORNEY FOR PLAINTIFF  
8122 DATAPOINT DR STE 816  
SAN ANTONIO TX 78216



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217

San Antonio, Texas 78205

By: /s/ Monica Hernandez  
Monica Hernandez, Deputy

San Juanita Lerma ET AL VS KCS Trucking,  
LLC ET AL

Officer's Return

Case Number: 2022CI01303

Court: 407th District Court

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MGO

Cause of failure to execute this is

1107 **FILED**  
O'CLOCK A M

FEB 10 2022

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DEPUTY



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By: /s/ Monica Hernandez  
Monica Hernandez, Deputy

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**KCS TRUCKING, LLC**  
 BY SERVING SSECRETARY OF STATE  
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 AUSITN, TEXAS 78711  
 Monica Hernandez Citation Certified Mail 2022C101303

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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<p>1. Article Addressed to:</p> <p><b>KCS TRUCKING, LLC</b>  <b>BY SERVING SSECRETARY OF STATE</b>  <b>PO BOX 12079</b>  <b>AUSITN, TEXAS 78711</b>          Monica Hernandez Citation Certified Mail 2022C101303</p> <p>9590 9402 6144 0209 2906 32</p>	<p><b>FEB 02 2022</b></p>												
<p>2. Article Number (Transfer from envelope label)</p> <p><b>7021 0350 0001 0265 6208</b></p>	<p>Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
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Case Number: 2022CI01303

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(Note: Attached Document May Contain Additional Litigants.)

IN THE 407th District Court  
BEXAR COUNTY, TEXAS

## CITATION

## "THE STATE OF TEXAS"

DIRECTED TO: Rick Kirk  
By serving SECRETARY OF STATE  
PO BOX 12079  
AUSTIN, TEXAS 78711

123 P

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this Citation and Petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said PLAINTIFFS' ORIGINAL PETITION was filed on this the 24th day of January, 2022

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101 W. Nueva, Suite 217

San Antonio, Texas 78205

By: /s/ Monica Hernandez  
Monica Hernandez, Deputy

San Juanita Lerma ET AL VS KCS Trucking,  
LLC ET AL

Officer's Return

Case Number: 2022CI01303

Court: 407th District Court

Came to hand on the 27th day of January, 2022, at 11:26 AM and EXECUTED (NOT EXECUTED) by CERTIFIED MAIL, on the 2 day of Feb, 2022, by delivering to: Tx Comptroller mass at PO BOX 12079 AUSTIN, TEXAS 78711 a true copy of this CITATION, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with PLAINTIFFS' ORIGINAL PETITION.

CRT

Cause of failure to execute this is

FILED  
1107 O'CLOCK A.M.

FEB 10 2022

MARY ANGIE GARCIA  
District Clerk, Bexar County, Texas  
By: Monica Hernandez  
DEPUTY



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: /s/ Monica Hernandez  
Monica Hernandez, Deputy



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☐ Adult Signature Restricted Delivery \$

Postmark  
 3 3 1486

RICK KIRK  
 BY SERVING SECRETARY OF STATE  
 PO BOX 12079  
 AUSTIN, TEXAS 78711  
 Monica Hernandez Citation Certified Mail 2022C01303

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RICK KIRK  
 BY SERVING SECRETARY OF STATE  
 PO BOX 12079  
 AUSTIN, TEXAS 78711  
 Monica Hernandez Citation Certified Mail 2022C01303

2. Article Number (Transfer from sender label)

7021 0350 0001 0265 6215

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is the delivery address different from item 1? ☐ Yes ☒ No  
 YES, enter delivery address below

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☐ Collect on Delivery ☐ Signature Confirmation™  
☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CERTIFIED MAIL 70210350000102656239

Case Number: 2022CI01303

San Juanita Lerma ET AL VS KCS Trucking, LLC ET AL  
(Note: Attached Document May Contain Additional Litigants.)

IN THE 407th District Court  
BEXAR COUNTY, TEXAS

## CITATION

## "THE STATE OF TEXAS"

DIRECTED TO: Justin Wilson  
By serving SECRETARY OF STATE  
PO BOX 12079  
AUSTIN, TEXAS 78711

CRT

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this Citation and Petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org." Said PLAINTIFF'S ORIGINAL PETITION was filed on this the 24th day of January, 2022

ISSUED UNDER MY HAND AND SEAL OF SAID COURT 27TH DAY OF JANUARY, 2022.

DAVID TIJERINA  
ATTORNEY FOR PLAINTIFF  
8122 DATAPOINT DR STE 816  
SAN ANTONIO TX 78216



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217

San Antonio, Texas 78205

By: /s/ Monica Hernandez  
Monica Hernandez, Deputy

San Juanita Lerma ET AL VS KCS Trucking,  
LLC ET AL

Officer's Return

Case Number: 2022CI01303

Court: 407th District Court

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Tx Comptroller mail at PO BOX 12079, AUSTIN, TX 78711 true copy of this CITATION, upon which I endorsed that date of delivery, together with the accompanying copy of the CITATION with PLAINTIFF'S ORIGINAL PETITION.

Cause of failure to execute this is

CRT

1107 FILED  
O'CLOCK A.M.

FEB 10 2022

MARY ANGIE GARCIA  
District Clerk, Bexar County, Texas

BY Monica Hernandez  
DEPUTY



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: /s/ Monica Hernandez  
Monica Hernandez, Deputy

7021 0350 0001 0265 6239

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<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____

Postage \$ \_\_\_\_\_

Postmark Here

**JUSTIN WILSON**  
**BY SERVING SECRETARY OF STATE**  
**PO BOX 12079**  
**AUSTIN, TEXAS 78711**  
 Monica Hernandez Citation Certified Mail 2022C101303

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <b>X</b></p> <p><input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)  <b>TX Comptroller Mail</b></p> <p>C. Date of Delivery  <b>FEB 02 2022</b></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes          If YES, enter delivery address below: <input type="checkbox"/> No</p>												
<p>1. Article Addressed to:</p> <p><b>JUSTIN WILSON</b>  <b>BY SERVING SECRETARY OF STATE</b>  <b>PO BOX 12079</b>  <b>AUSTIN, TEXAS 78711</b>          Monica Hernandez Citation Certified Mail 2022C101303</p> <p>          9590 9402 6144 0209 2906 01</p>	<p>Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
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<p>2. Article Number (Transfer from service label)</p> <p><b>7021 0350 0001 0265 6239</b></p>	<p>Restricted Delivery</p>												
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>													

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CAUSE NO. 2022-CI-01303

JACQUELINE BENAVIDEZ AND	§	IN THE DISTRICT COURT
SAN JUANITA LERMA	§	
	§	
V.	§	407 <sup>th</sup> JUDICIAL DISTRICT
	§	
KCS TRUCKING, LLC, NORTHLAND	§	
CAPITAL FINANCIAL SERVICE, LLC	§	BEXAR COUNTY, TEXAS
RICK KIRK AND JUSTIN WILSON		

**DEFENDANT KCS TRUCKING, LLC, RICK KIRK, AND JUSTIN WILSON'S**  
**ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME KCS TRUCKING, LLC, RICK KIRK, AND JUSTING WILSON, Defendants in the above-captioned cause of action, and file this their Original Answer, and for such would respectfully show unto the Court as follows:

**I.**  
**GENERAL DENIAL**

Pursuant to TEX. R. CIV. P. 92, Defendants, KCS TRUCKING, LLC, RICK KIRK, AND JUSTING WILSON, enter a general denial and demand strict proof by a preponderance of the evidence, or other applicable standard, of all the allegations asserted by Plaintiffs in Plaintiffs' Original Petition, and any supplement and/or amendment thereto.

**II.**  
**CONTRIBUTORY NEGLIGENCE**

Defendants assert that any injuries or damages to Plaintiffs, JACQUELINE BENAVIDEZ AND SAN JUANITA LERMA, were caused, in whole or in part, by Plaintiffs' own contributory negligence.

**III.**  
**PAID OR INCURRED**

The Plaintiffs' "right" to recover medical expenses is limited by the provisions of TEX. CIV. PRAC. & REM. CODE 41.0105. Thus, recovery of medical or health care expenses incurred by Plaintiffs are limited to the amount actually paid or incurred by or on behalf of the Plaintiffs.

**IV**  
**PRE-EXISTING CONDITION**

Defendants allege that the injuries (in whole or in part) complained of by Plaintiffs in this suit are pre-existing injuries and/or injuries that occurred after the subject incident.

**V.**  
**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendants, KCS TRUCKING, LLC, RICK KIRK, AND JUSTING WILSON, pray that Plaintiffs take nothing by reason of this suit and that KCS TRUCKING, LLC, RICK KIRK, AND JUSTING WILSON be awarded their costs of court and such other and further relief to which they may be justly entitled.

Respectfully submitted,



---

R. MATT LAIR  
State Bar No. 11795410  
Shelton & Valadez, P.C.  
600 Navarro, Suite 500  
San Antonio, Texas 78205-1860  
(210) 349-0515 Telephone  
(210) 349-3666 Facsimile  
[mlair@shelton-valadez.com](mailto:mlair@shelton-valadez.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served in compliance with Rules 21 and 21a of the Texas Rules of Civil Procedure on February 21, 2022, on the following counsel of record:

Email: [d.tijerina@jagamezlaw.com](mailto:d.tijerina@jagamezlaw.com)

David A. Tijerina

Joe A. Gamez

LAW OFFICE OF JOE A. GAMEZ, P.C.

1119 Fresno Dr.

San Antonio, Texas 78201

T: (210) 736-4040

A handwritten signature in blue ink, reading "R. Matt Lair", is written over a horizontal line.

R. MATT LAIR

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Melanie Ploch on behalf of R. Matt Lair  
 Bar No. 11795410  
 mploch@shelton-valadez.com  
 Envelope ID: 61942678  
 Status as of 2/23/2022 11:57 AM CST

Associated Case Party: San Juanita Lerma

Name	BarNumber	Email	TimestampSubmitted	Status
Niqita Selman		n.selman@jagamezlaw.com	2/21/2022 5:51:40 PM	SENT
Niqita Selman		n.selman@jagamezlaw.com	2/21/2022 5:51:40 PM	SENT
David A.Tijerina		d.tijerina@jagamezlaw.com	2/21/2022 5:51:40 PM	SENT
David A.Tijerina		d.tijerina@jagamezlaw.com	2/21/2022 5:51:40 PM	SENT

Associated Case Party: Jacqueline Benavidez

Name	BarNumber	Email	TimestampSubmitted	Status
Niqita Selman		n.selman@jagamezlaw.com	2/21/2022 5:51:40 PM	SENT
David A.Tijerina		d.tijerina@jagamezlaw.com	2/21/2022 5:51:40 PM	SENT
Niqita Selman		n.selman@jagamezlaw.com	2/21/2022 5:51:40 PM	SENT
David A.Tijerina		d.tijerina@jagamezlaw.com	2/21/2022 5:51:40 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Melanie Ploch		mploch@shelton-valadez.com	2/21/2022 5:51:40 PM	SENT
Matt Lair		mlair@shelton-valadez.com	2/21/2022 5:51:40 PM	SENT



CAUSE NO. 2022-CI-01303

JACQUELINE BENAVIDEZ AND	§	IN THE DISTRICT COURT
SAN JUANITA LERMA	§	
	§	
V.	§	407 <sup>th</sup> JUDICIAL DISTRICT
	§	
KCS TRUCKING, LLC, NORTHLAND	§	
CAPITAL FINANCIAL SERVICE, LLC	§	BEXAR COUNTY, TEXAS
RICK KIRK AND JUSTIN WILSON		

**DEFENDANT KCS TRUCKING, LLC, RICK KIRK, AND JUSTIN WILSON'S**  
**JURY DEMAND**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME KCS TRUCKING, LLC, RICK KIRK, AND JUSTING WILSON,  
Defendants in the above-captioned cause of action, and request that the above cause of action be  
tried before a jury. Defendants are submitting the jury fee along with this filing.

Respectfully submitted,



By: \_\_\_\_\_  
R. MATT LAIR  
State Bar No. 11795410

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served in compliance with Rules 21 and 21a of the Texas Rules of Civil Procedure on February 21, 2022, on the following counsel of record:

Email: [d.tijerina@jagamezlaw.com](mailto:d.tijerina@jagamezlaw.com)

David A. Tijerina

Joe A. Gamez

LAW OFFICE OF JOE A. GAMEZ, P.C.

1119 Fresno Dr.

San Antonio, Texas 78201

T: (210) 736-4040

  
\_\_\_\_\_  
R. MATT LAIR

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